

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 17-4777-FMO (KS) Date: August 28, 2017

Title Alonso Bautista Jr. v. Structural Pest Control Board et al

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

n/a
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On June 28, 2017 Plaintiff, a California resident proceeding *pro se*, filed a civil rights complaint (“Complaint”) pursuant to 42 U.S.C. § 1983 (“Section 1983”) alleging Fifth and Fourteenth Amendment violations related to the California Structural Pest Control Board’s investigation of a citation against him and subsequent ruling and fine. (Dkt. No. 1.)

On July 10, 2017, the Court dismissed the Complaint with leave to amend because: the Eleventh Amendment bars claims against the State and its agencies for money damages; Plaintiff failed to plead sufficient factual allegations to support a plausible inference that Defendants Saylor, Good, and Newport Exterminating Inc., were personally involved in the alleged violations of Plaintiff’s rights; and Plaintiff’s claim against Defendant Graves appears to be untimely. (Dkt. No. 7.) The Court ordered Plaintiff to file a First Amended Complaint within 30 days, *i.e.*, no later than August 9, 2017, and warned Plaintiff that his failure to do so could result in a recommendation of dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

More than two weeks have passed since Plaintiff’s First Amended Complaint was due, and Plaintiff has neither filed the First Amended Complaint, notified the Court of a change of address, nor otherwise communicated with the Court about his case.

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, an action may be subject to involuntary dismissal if a plaintiff “fails to prosecute or to comply with these

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rules or a court order.” Accordingly, the Court could properly recommend dismissal of the action for Plaintiff’s failure to timely comply with the Court’s March 21, 2017 Order.

However, in the interests of justice, Plaintiff is **ORDERED TO SHOW CAUSE on or before September 18, 2017**, why the Court should not recommend that this action be dismissed for failure to prosecute. Plaintiff may discharge this Order by filing: (1) a request for an extension of time to file a First Amended Complaint and a declaration signed under penalty of perjury, explaining why he failed to comply with the Court’s July 10, 2017 order; or (2) a First Amended Complaint. Alternatively, if Plaintiff does not wish to pursue this action, he may dismiss the Complaint without prejudice by filing a signed document entitled “Notice Of Voluntary Dismissal” pursuant to Rule 41(a)(1)(A).

Plaintiff is advised that the failure to respond to this order will lead the Court to recommend dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Initials of Preparer

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